

**REMARKS**

**Revocation of Power of Attorney**

Applicant is submitting herewith a REVOCATION OF POWER OF ATTORNEY AND APPOINTMENT OF NEW ATTORNEY naming Bruce H. Troxell as attorney of record in this patent application. A CHANGE OF ADDRESS notification is also submitted herewith. It is requested that all further correspondence regarding this matter be forwarded to TROXELL LAW OFFICE PLLC at the address listed on the enclosed form.

**Claim Rejections**

Claims 1-8 are rejected under 35 U.S.C. § 112, second paragraph. Claims 1-2 and 5-8 are rejected under 35 U.S.C. § 102(b) as being anticipated by Sugimoto et al. (US-5,718,667). Claims 3-4 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Sugimoto et al. in view of Creed (US-4,863,380).

**Amendments to Specification**

Applicant has amended the specification as noted above to correct the description of the figures and a reference number for the insert slot. No "new matter" has been added to the original disclosure by the foregoing amendment to the specification.

**Abstract of the Disclosure**

Applicant is submitting a substitute Abstract of the Disclosure for that originally filed with this application to more clearly describe the claimed invention. Entry of the substitute Abstract of the Disclosure is respectfully requested.

**Drawings**

Applicant purposes to amend Figures 9 and 10 as illustrated in red on the attached photocopies. The proposes amendments include separately numbering each of the plurality of figures set forth in original Figures 9 and 10.

It is noted that no Patent Drawing Review (Form PTO-948) was received with the outstanding Office Action. Thus, except for the proposed amendments, Applicant must assume that the drawings are acceptable.

### **New Claims**

By this Amendment, Applicant has canceled claims 1-8 and has added new claims 9-15 to this application. It is believed that the new claims specifically set forth each element of Applicant's invention in full compliance with 35 U.S.C. § 112, and define subject matter that is patentably distinguishable over the cited prior art, taken individually or in combination.

The new claims recite a vibrating wave oral cleansing and hygiene device comprising: a holder body (1) having: a working section (2) connected to an interior of the holder body; and an insert section (3) on an end of the holder body; a link rod (4) having a floss bow section (5), the link rod being removably connected to the insert section of the holder body, the floss bow section having two floss expansion ends (51, 52), each of the floss expansion ends having a retaining notch (510, 520) for securing a floss material between the two floss expansion ends.

The floss bow section includes a securing screw (72) and a screw rod (73)., and the link rod may have a Y shape (8). The present invention also includes an insert slot (30) having two elastic clamp components (31, 32); a rod body (41) on the link rod, the rod body being on an end opposite the floss bow section, wherein the rod body is removably inserted into the insert slot and frictionally engaged by the two elastic clamp components. In another embodiment of the present invention, the insert section has an insert tenon (12), the link rod has an insert tube (71) on an end opposite the floss bow section, wherein the insert tenon is removably inserted into the insert tube. A further embodiment of the present invention includes a horseshoe shaped massage bar (9).

The primary reference to Sugimoto et al. discloses an oral hygiene instrument having a holder member (10), a holding portion (11), four claws (72), a bag-like massaging tool (92), and a floss unit (93).

Sugimoto et al. teaches a floss unit having a pair of arm portions formed at the end of a shaft, but unlike the present invention does not teach the floss bow

section having two floss expansion ends, each of the floss expansion ends having a retaining notch for securing a floss material between the two floss expansion ends. Additionally, Sugimoto et al. does not teach the floss bow section having a securing screw and a screw rod, nor does Sugimoto et al. teach the link rod having a Y shape.

Sugimoto et al. states, at col. 9, lines 45-53:

... a pair of first slits 70 and a pair of second slits 71 are formed alternately in the left portion of the holding portion 11, uniformly circumferentially spaced therearound; the first slits 70 are formed from the left hand end of the holding portion 11 to the vicinity of the inner back surface, and the second slits 71 are formed from the left hand end of the holding portion 11 to part-way down the holding portion 11; four claws 72 are formed by the slits 70 and 71 in the left portion of the holding portion 11.

It is clear that Sugimoto et al. does not teach: the insertion section having a slot having two elastic clamp components; the rod body being removably inserted into the insert slot and frictionally engaging the two elastic clamp components; the insert section having an insert tenon, the link rod having an insert tube, and the insert tenon being removably inserted into the insert tube. While Sugimoto et al. broadly teaches a back-like massage tool, it does not teach a horseshoe shaped massage bar as in Applicant's new claims.

It is axiomatic in U.S. patent law that, in order for a reference to anticipate a claimed structure, it must clearly disclose each and every feature of the claimed structure. Applicant submits that it is abundantly clear, as discussed above that Sugimoto et al. does not disclose each and every feature of Applicant's new claims and, therefore, could not possibly anticipate these claims under 35 U.S.C. § 102. Absent a specific showing of these features, Sugimoto et al. cannot be said to anticipate any of Applicant's new claims under 35 U.S.C. § 102.

The cited reference to Creed discloses a gum treating method and device having a reservoir (13), a handle (17), a tubular neck (23), and an adapter (21) connecting the reservoir and the handle.

Creed does not disclose a floss bow section having two floss expansion ends, each of the floss expansion ends having a retaining notch, nor does Creed teach a floss bow section having a securing screw and a screw rod configured to fasten ends of the floss material. Further, Creed does not teach the link rod having a Y shape.

Creed states, at col. 2, lines 16-21:

An opening 19 is located at the upper end of reservoir 13. An adapter 21 fits tightly into the opening 19. Adapter 21 is a tubular member having an external flange 22 that bears against the rim surrounding opening 19 of the reservoir 13.

A tubular neck 23 extends through the adapter 21.

Although Creed teaches a tubular neck connected to the handle by an adapter, unlike the present invention, it does not disclose that the insert section has an insert slot having two elastic clamp components, and that the rod body is removably inserted into the insert slot and frictionally engaged by the two elastic clamp components. The insert section having an insert tenon, the link rod having an insert tube, and the insert tenon being removably inserted into the insert tube, as clearly required by Applicant's claims are not disclosed by Creed, nor does Creed teach a horseshoe shaped massage bar as required by Applicant's new claim 14.

Even if the teachings of Sugimoto et al. and Creed were combined, as suggested by the Examiner, the resultant combination does not teach: 1) the floss bow section having two floss expansion ends, each of the floss expansion ends having a retaining notch for securing a floss material between the two floss expansion ends; 2) the floss bow section having a securing screw and a screw rod; 3) the link rod having a Y shape; 4) the insert section having an insert slot having two elastic clamp components, and the rod body being removably inserted into the insert slot and frictionally engaging the two elastic clamp components; 5) the insert section having an insert tenon, the link rod having an insert tube, and the insert tenon being removably inserted into the insert tube; and 6) a horseshoe shaped massage bar.

It is a basic principle of the United States Patent Laws that it is improper to arbitrarily pick and choose prior art patents and combine selected portions of the selected patents on the basis of the applicant's disclosure to create a hypothetical or fictional combination which allegedly renders a claim obvious unless there is some direction in the selected prior art patents to combine the selected teachings in a matter to negate the patentability of the claimed subject matter.

The Courts have advocated that even if the prior art may be modified, the modification is not obvious unless the prior art suggests the desirability for the modification. For example, in *In re Fritch*, 922 F.2d 1260, 23 USPQ.2d 1780 (Fed. Cir. 1992), the Court held, at page 1783:

The mere fact that the prior art may be modified in the manner suggested by the Examiner does not make the modification obvious unless the prior art suggested the desirability of the modification.

Neither Sugimoto et al., nor Creed disclose, or suggest a modification of the specifically disclosed structure that would lead one having ordinary skill in the art to arrive at Applicant's claimed structure. Applicant hereby respectfully submits that no combination of the cited prior art renders obvious the new claims 9-15.

### **Summary**

In view of the foregoing amendments and remarks, Applicant submits that this application is now in condition for allowance and such action is respectfully requested. Should any points remain in issue, which the Examiner feels could best be resolved by either a personal or a telephone interview, it is urged that Applicant's local attorney be contacted at the exchange listed below.

Respectfully submitted,

Date: June 9, 2003

By: \_\_\_\_\_

  
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